

REMARKS

The applicant wishes to thank the Examiner for the courtesies rendered to the applicant's representative during the telephonic interview of October 4, 2005. During this interview, the applicant's representative discussed with the Examiner the rejections under 35 USC 102(b) in view of Dawson et al in particular. In pointing out the deficiencies of Dawson et al under 35 USC 102(b), the applicant's representative and the Examiner found common ground as to the allowability of subject matter now embodied in the amendments presented above for entry. This agreement is subject to further search by the Examiner. The applicant's representative would like to point out that the subject matter now agreed to as being allowable over the art of record has been asserted since the original filing of this application and thus has been the subject of at least three searches to date, one of these searches having been conducted by the Examiner.

For the record, the applicant's representative pointed out during the interview that the patents to Dawson et al, Otaka, Korengold and Skrzypchak do not disclose luminaires having patterns formed thereon that evoke any association with anything much less a diamond tread plate pattern evocative of a motor sport activity. Dawson et al, the reference primarily discussed during the interview, was seen by the applicant's representative as failing to disclose a luminaire as well as failing to disclose a pattern impervious to light, the Dawson et al structure being a body panel of a car with open areas through which light from a tail lamp inter alia can pass to provide an indicator. The Dawson et al structure is not a luminaire.

Although not discussed during the interview, the patents to Otaka and Korengold fail as references under 35 USC 102(b) since the structures disclosed in these patents are not

provided with patterns evocative of an association with anything. Otaka and Korengold do not inter alia provide structure impervious to light.

As to the rejection under 35 USC 103(a), the combination of Korengold with Skrzypchak fails not only due to the deficiencies of Korengold as noted above but also due to the fact that a combination of Korengold with the disclosure of Skrzypchak would produce an inoperative result. No reason exists in the disclosures of Korengold or Skrzypchak or in any forced combination of the two, to combine these patents. A reason to combine references under 35 USC 103(a) must exist in the references themselves and not be provided by the disclosure on which claims being rejected are based.

The applicant's representative also pointed out during the interview the issuance by the United States Patent Office of a design patent based on the disclosure of the present application. At the very least, the issuance of the design patent is res judicata for the essential subject matter of the independent claims herein presented.

The applicant believes that the amendments hereby presented must be entered since no new issues are raised and no new subject matter is presented for consideration. As such, a new search is not required since the subject matter of the claims herein presented for entry has been subject to and the subject of examination since the original filing of the application. Any additional search would be at the option of the Examiner and would definitely not be necessitated by the amendments to the claims herein presented for entry. Entry of the Amendment in its entirety is therefore believed appropriate and entry is therefore requested.

Claims 1, 3, 5-7, 9, 12-15, 17-19 and 21 are hereby presented for consideration and
are believed to be allowable in view of the agreement reached during the interview.
Favorable consideration of the claims as herein asserted is respectfully requested.

Respectfully submitted,



Kenneth E. Darnell
Reg. No. 26541

2010 West 7th
Coffeyville, Kansas 67337

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